United Nations CCPR/C/SDN/Q/5

International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues in relation to the fifth periodic report of the Sudan*

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. With regard to the assertion in the State party's report that the international human rights treaties that the country has ratified are an integral part of the "Bill of Rights", which is itself part of the Interim Constitution (see CCPR/C/SDN/5, para. 15), please clarify the legal status of the Covenant in the State party in relation to the Constitution and other domestic law. Does it have equal or superior status? Please provide examples of any cases where national courts have directly applied provisions of the Covenant or been asked to rule on the compatibility of domestic laws with the Covenant. Please provide information on any instances in which the provisions of sharia law have been found to be in conflict with the Covenant and on any measures that have been taken to repeal those provisions. Please state what measures have been taken to educate government officials, law enforcement agencies, the armed forces and the general public on the Covenant. Please indicate whether the State party report was prepared on the basis of a consultative process. Please also indicate what measures the State party has in place to implement the Committee's recommendations and whether the State party intends to ratify the Optional Protocol to the Covenant.

2. Please provide detailed information on the National Human Rights Commission, including the activities that it has carried out since its establishment in 2012, and describe its mandate, powers and budget. Please comment on reports that the Commission is not provided with sufficient resources for the effective and independent exercise of its mandate. Please indicate whether the Commission's mandate is wholly in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

3. Please provide further information on the status of the State reform programme, which, according to the State party, "focuses on justice and envisages a veritable legislative revolution to amend various pieces of national legislation with a view to bringing them into line with the Constitution and the obligations of the Sudan under international treaties" (see CCPR/C/SDN/5, para. 15). In particular, please provide information on:

(a) The amendments made to the Interim Constitution in October 2016 and their compatibility with the State party's obligations under the Covenant;

(b) The status of the laws being reviewed by the committees of experts, including the Criminal Code, the Code of Criminal Procedure, the Evidentiary Act and the Code of Civil Procedure;

* Adopted by the Committee at its 122nd session (12 March–6 April 2018).

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(c) The selection and formation process of the legislative review committees and the measures taken to ensure the diversity of these bodies.

State of emergency (art. 4)

4. Following the issuance of a decree by the President declaring a six-month state of emergency in the provinces of North Kordofan and Kassala on 30 December 2017, please indicate whether the decree is still in force and, if so, whether rights have been derogated from, which rights they are and when the State party intends to revoke the state of emergency. Please comment on reports that the state of emergency in Darfur has led to the curtailment of fundamental rights and freedoms and that there have been arbitrary arrests and prolonged detentions without judicial oversight. Please explain the steps being taken to ensure that article 211 (a) of the Interim Constitution, which lists the non-derogable rights during states of emergency, fully complies with article 4 (2) of the Covenant, particularly with regard to articles 7, 11, 15, 16 and 18. Please indicate steps being taken to investigate and document human rights violations committed during the state of emergency and to investigate and prosecute persons against whom there are credible allegations of serious human rights violations. Please provide information on measures taken to comply with the requirement to notify the Secretary-General of the United Nations of any rights derogated from, the reasons for which such action was taken and the termination of any state of emergency, under article 4 (3) of the Covenant.

Non-discrimination and equality (arts. 2, 3, 6, 7, 17, 24 and 26)

5. In the light of the Committee's previous concluding observations (see CCPR/C/SDN/CO/4, para. 11), please provide further information on the amendments to the Interim Constitution in 2017 (see CCPR/C/SDN/5, para. 35). Please also provide information on the bill that aims to criminalize discrimination and hatred on the grounds of religion or race (see CCPR/C/SDN/5, para. 18). Please indicate whether the Interim Constitution and/or the proposed amendments contain a comprehensive list of prohibited grounds of discrimination, including, inter alia, race, ethnic origin, colour, sex, language, religious creed, age, sexual orientation and gender identity. Please indicate the measures taken to establish an effective and independent mechanism to handle and remedy complaints of discrimination, including racial discrimination, and to combat all forms of discrimination in practice.

6. Please provide information on the number of people who have been arrested, detained and prosecuted for same-sex sexual activity by virtue of section 148 of the Criminal Code, which criminalizes sodomy, and whether the State party intends to repeal that provision to ensure compliance with its obligations under articles 2, 17 and 26 of the Covenant. Please also provide information on the legal and practical measures taken to combat discrimination on the basis of sexual orientation and gender identity, including any awareness-raising campaigns.

Gender equality, violence against women and harmful traditions (arts. 2, 3, 6, 7, 17, 23, 24, 25 and 26)

7. Please provide information on the status of women under the Personal Status Code of 1991 and indicate all measures taken to ensure equality between men and women, including:

(a) Eliminating harmful cultural and traditional practices, in particular polygamy and early and forced marriage;

(b) Ensuring equality for women in matters relating to marriage and family relations, particularly with regard to inheritance, marriage, divorce and child custody. Please provide information on the steps being taken to repeal section 40 of the Personal Status Code of 1991, which provides that a 10-year-old girl can be married if the marriage is "justified" before a court of law. Please also provide detailed information on the support services provided by the State party to victims of early and forced marriage. Please indicate any plans to ratify the Convention on the Elimination of All Forms of Discrimination against Women.

8. According to information before the Committee, the practice of female genital mutilation remains prevalent in the State party. In the light of the Committee's previous concluding observations (see CCPR/C/SDN/CO/4, para. 13), please provide an update on the status of the bill outlawing that practice and the 2016 bill amending the Criminal Code of 1991, which includes provisions criminalizing female genital mutilation. Please also provide information on any other measures taken to combat the practice, such as:

(a) The collection of comprehensive data on the incidence of female genital mutilation in the State party and on the number of complaints received, investigations conducted, prosecutions mounted and convictions secured;

(b) The sanctions imposed and reparations to the victims;

(c) Training and awareness-raising sessions, particularly aimed at family decision makers and traditional and religious leaders, on the dangers of female genital mutilation.

9. Please respond to allegations of: (a) the gang rape of a 16-year-old girl and a woman by a Government-allied militia gang in Neriti, Central Darfur, on 15 December 2017; and (b) the rape of more than 200 women and girls belonging to the Fur ethnic group by members of the Sudanese Armed Forces in the village of Thabit in North Darfur on 31 October 2014. Please provide detailed information on any investigations into rape allegations and on any legal proceedings instituted by the State party against members of the security forces, and the findings thereof.

10. The Committee notes the information provided by the State party concerning the amendment to the Criminal Code in 2015 regarding "offences that fall within the concept of violence against women" (see CCPR/C/SDN/5, para. 38) but requires additional information on specific provisions criminalizing domestic violence and marital rape. Please respond to reports that the strong stigma and severe punishment attached to adultery deter women from reporting rape. Please provide data on:

(a) The number of complaints lodged concerning all forms of violence against women and girls, including domestic violence and sexual violence;

(b) Investigations and prosecutions to which those complaints gave rise;

(c) The number of convictions and the nature of the sanctions imposed;

(d) The remedies afforded to victims;

(e) The assistance provided for the victims of violence, including legal, psychological and medical support. Please clarify whether the authorities conduct investigations in the absence of a complaint or a victim's testimony, and indicate all steps taken to raise awareness among prosecutors, judges and the general public regarding violence against women and girls, including domestic violence.

Voluntary termination of pregnancy and reproductive rights (arts. 2, 3, 6, 7, 17 and 26)

11. In view of articles 135 and 136 of the Criminal Code of 1991, please indicate whether the State party intends to review its legislation criminalizing the voluntary termination of pregnancy. Please provide disaggregated data, for the period since the previous periodic report, on the number of:

(a) Deaths from clandestine voluntary termination of pregnancy;

(b) Women convicted of voluntary termination of pregnancy and the sentences imposed;

(c) Persons convicted of having carried out a voluntary termination of pregnancy. Please provide information on the measures taken to ensure that women have access to post-abortion care and that medical practitioners and health-care providers are trained in pregnancy termination procedures. Please also provide information on the availability of access to adequate sexual and reproductive health-care services, contraception and education for men, women, boys and girls throughout the country.

Right to life, prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 2, 6, 7, 9 and 12)

12. In the light of the Committee's previous concluding observations (see CCPR/C/SDN/CO/4, para. 8), please provide information on:

(a) The State party's intentions with regard to extending the ceasefire in the conflict-affected regions of Darfur and the two areas of Southern Kordofan and Blue Nile;

(b) Reports that government forces were responsible for large-scale attacks on villages during counter-insurgency campaigns in North and Central Darfur between 2014 and 2016, causing large-scale loss of life and forcing tens of thousands of persons to flee;

(c) Allegations that Sudanese government forces utilized "poisonous smoke" in the course of attacks in Jebel Marra between January and September 2016;

(d) Measures taken to ensure that State forces and groups under the control of the State or operating with its acquiescence do not perpetrate human rights violations under any circumstances;

(e) Measures taken to ensure that no financial support or equipment is given to groups that engage in the deliberate targeting of civilians;

(f) Measures taken to provide the protection needed by victims of serious abuse and persons fleeing conflict zones;

(g) Measures to prevent and punish abuses committed by Sudanese forces and other groups against civilians, and cooperation extended to competent international tribunals for the prosecution and punishment of persons responsible for human rights violations since the beginning of the various conflicts;

(h) Measures taken to ensure that investigations and prosecutions relating to the serious human rights violations committed in Darfur since February 2003 are accelerated and that cooperation with international mechanisms of accountability, including competent international tribunals, is increased.

13. With reference to the Committee's previous recommendations (see CCPR/C/SDN/CO/4, para 14), please indicate what steps have been taken towards the abolition of the death penalty. Please review the list of offences for which the death penalty is an available punishment and describe the measures taken to ensure that the death penalty is imposed only for the most serious crimes, as prescribed in article 6 (2) of the Covenant. Please comment on reports that there are approximately 300 persons under sentence of death. Please also comment on article 27 of the Criminal Code of 1991, which provides that stoning may be used as a method of execution, accompanied by crucifixion. Does the State party plan to change this? Please provide information on any measures to amend the Combating of Human Trafficking Act of 2014 to bring article 9 (2), which provides that the death penalty may be imposed for nine aggravated acts of trafficking, into line with the requirements of article 6 (2) of the Covenant. Please provide data for the period since the previous periodic report, disaggregated by gender, age and nationality, of the number of:

(a) Death sentences handed down;

(b) Persons awaiting execution;

(c) Persons executed, by category of crime;

(d) Sentences that have been commuted.

14. With reference to the Committee's previous recommendations (see CCPR/C/SDN/CO/3, paras. 16 and 26, and CCPR/C/SDN/CO/4, para. 15 (a)), please provide information on the bill amending the 1991 Criminal Code, which includes a definition of torture, and clarify whether the proposal complies with article 7 of the Covenant. In particular, please indicate whether the State party intends to increase the legal punishment for the crime of torture, which is currently stated to be a term of imprisonment of up to three months and/or a fine (see CCPR/C/SDN/5, para. 53), and to ensure that sanctions are commensurate with the severity of the crime. Please respond to allegations of torture and ill-treatment of prisoners at the time of their arrest and during the preliminary

investigation period, particularly by law enforcement agents. Please provide detailed information on:

(a) The measures taken to investigate allegations of torture and ill-treatment committed by law enforcement agents;

(b) The number of persons prosecuted and convicted;

(c) The compensation and reparations paid to victims;

(d) The protection accorded to victims of torture, witnesses and their families. Please also respond to reports that courts can accept evidence obtained by unlawful means, including confessions obtained as a result of torture. Please indicate any plans to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

15. With reference to the Committee's previous recommendations (see CCPR/C/SDN/CO/3, para. 10, and CCPR/C/SDN/CO/4, para. 16), please provide information on the steps being taken to abolish corporal punishment, such as flogging and amputation, in the penal system and to prevent the use of any such punishment until the relevant legislation is repealed. Please indicate whether corporal punishment may be imposed as a sentence for offences committed by children. Please provide detailed information on the steps being taken to amend article 146 of the Criminal Code of 1991, which criminalizes adultery and puts men and women at risk of being executed by stoning or receiving a punishment of 100 lashes.

16. Please provide information on the findings of the investigations into:

(a) The killing of Abu Baker Hashim during the university elections in El Obeid, North Kordofan, on 19 April 2016;

(b) The killing of Mohamed al-Sadig Wayo by the National Intelligence and Security Services in clashes on campus between pro-Government and opposition students on 27 April 2016;

(c) The detention by the National Intelligence and Security Services of Salah Gamar Ibrahim, a Darfuri student belonging to a student political organization affiliated with the Sudan Liberation Army-Abdul Wahid.

Excessive use of force (arts. 6, 7, 9, 19, 21 and 22)

17. Please provide information regarding the legal standards applied in the State party for the appropriate use of force and firearms by law enforcement officials and the source of those standards in domestic law. Please explain what steps the State party has taken to ensure that such standards comply with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and are respected by law enforcement and security personnel in practice.

18. Please respond to reports of the use of excessive and disproportionate force, in particular the use of live ammunition, rubber bullets and tear gas, against protesters. Please provide information regarding the findings of the three State commissions of inquiry that were established to investigate the September and October 2013 demonstrations, where security forces killed and injured dozens of peaceful protesters. Please provide detailed information on:

(a) The total number of persons killed and injured during demonstrations that occurred during the reporting period, disaggregated by sex and age;

(b) The causes of death or injury;

(c) The number of law enforcement officials and members of the security forces that have been investigated, prosecuted and convicted and the nature of any sentences imposed;

(d) The reparations made to victims.

Liberty and security of the person and humane treatment of persons deprived of their liberty (arts. 7, 9, 10, 12, 14, 19, 21 and 22)

19. Please comment on reports of the prolonged and arbitrary detention, without charge or trial, of individuals, particularly human rights defenders, students, political and youth activists, lawyers and doctors who are perceived to be critical of the Government. Please provide information on the measures taken to ensure that persons who are arrested and detained are brought before a judge within 48 hours and afforded the remedies available to victims of unlawful or arbitrary arrest.

20. Please provide up-to-date data, disaggregated by facility, regarding the official and actual capacity of all places of detention in the country and specify what measures have been taken to address overcrowding and improve prison conditions, in the light of reports of, inter alia, inadequate health care, lack of access to water and sanitation, and violence against detainees.

Administration of justice and immunity for State agents (arts. 2, 6, 7, 14 and 26)

21. With reference to the Committee's previous recommendations (see CCPR/C/SDN/CO/3, para. 9, and CCPR/C/SDN/CO/4, para. 17), please provide information on the measures being taken to repeal:

(a) Article 52 (3) of the National Security Act of 2010;

(b) Article 45 (2) of the Police Act of 2008;

(c) Article 34 (2) of the Armed Forces Act of 2007, which grants immunity from prosecution to members of the National Intelligence and Security Services. In that connection, please: (i) clarify the rules and procedures for lifting immunity; (ii) explain the grounds for the refusal or acceptance of requests to lift immunity; and (iii) provide disaggregated data on the number of requests for immunity from prosecution to be lifted in relation to members of the National Intelligence and Security Services. Does domestic law provide immunity to the Head of State from prosecution for human rights violations?

Treatment of aliens, including refugees, asylum seekers and migrants, and population displacement (arts. 2, 6, 7, 9, 13 and 26)

22. Bearing in mind the Committee's previous concluding observations (see CCPR/C/SDN/CO/4, para. 23), please provide information on:

(a) Measures taken in law and in practice to ensure that the deportation of foreigners, including Eritreans, is carried out in accordance with the Covenant, with the guarantee of due process of law and non-refoulement;

(b) The length of the refugee status determination procedure;

(c) The right of foreign trafficking victims to remain in the country and the prospect of an explicit prohibition of refoulement;

(d) The memorandum of understanding on migration that was signed between the State party and Italy with the aim of simplifying the return of third-country nationals who are considered "illegal";

(e) The number of persons, disaggregated by gender, age and nationality, who have: (i) been detained for illegal entry into the State party; (ii) been deported, or who face deportation, and to which country; or (iii) lodged an appeal against a decision to deport, and the outcomes of such procedures;

(f) The current whereabouts and well-being of: (i) 48 Darfuris deported to the Sudan on 24 August 2017 by the Government of Italy in proceedings that appeared not to adequately protect the rights of asylum seekers; (ii) 800 Sudanese deported to the Sudan by the Jordanian authorities; and (iii) 36 Sudanese deported to the Sudan by Egypt in July 2017;

(g) Allegations that: (i) in February 2017, about 65 asylum seekers, the majority from Ethiopia but some from Eritrea, were lashed 40 times on their backs and the backs of

their legs with leather whips and 40 were deported immediately after being arrested; (ii) on 29 August 2017, the Sudanese authorities deported 30 minors aged between 15 and 17 years back to Eritrea; and (iii) on 17 September 2017, 36 Eritreans who had been imprisoned for illegal entry were deported to Eritrea, without having had effective access to a lawyer.

23. According to information before the Committee, an estimated 2.6 million people have been internally displaced since the conflict began in Darfur in 2003. In the light of the Committee's previous concluding observations (see CCPR/C/SDN/CO/4, para. 9), please provide updated information on measures taken by the State party to prevent the internal displacement of persons and to ensure that adequate and effective protection is provided for internally displaced persons in camp and non-camp situations. Please also provide information on measures taken to protect the rights of civilians in conflict areas, particularly in Khartoum, where there are hundreds of thousands of displaced people living in camps, and to prevent and punish abuses committed by the security forces against civilians. In particular, please respond to allegations that the security forces deliberately targeted civilians and villages in the Nuba Mountains and Jebel Marra in Central Darfur and that they opened fire on protesters in Kalma, the largest camp for displaced people in South Darfur, killing at least 5 and wounding more than 20.

Trafficking in persons (art. 8)

24. Please respond to reports of increased human trafficking, particularly of women and girls in Eastern Sudan and Khartoum, the killing of the victims of such trafficking and the selling of their organs. Please indicate the measures being taken by the State party to combat trafficking in persons and to identify and protect victims of trafficking. Please also provide statistical data, disaggregated by sex, age and country, of victims of trafficking and a detailed description of the services offered to them, including medical and psychological assistance. Please indicate the number of persons, including government officials, who have been prosecuted for human trafficking or related crimes, and the outcome of such cases.

Freedom of expression, peaceful assembly and association (arts. 19, 21, 22 and 25)

25. Please respond to reports of:

(a) The closure of newspapers for up to three days without a court order and the imposition of long-term suspensions;

(b) The confiscation of entire editions of newspapers;

(c) The subjection of journalists to intimidation, harassment, detention and interrogation by members of the National Intelligence and Security Services. Please comment on the recent seizure of the Al-Tayar, Al-Mustagilla, Al-Karar, Al-Midan, Al-Assayha and Akhbar Al-Watan newspapers by the National Intelligence and Security Services on 7 January 2018. Please explain the rationale behind their decision to ban a columnist of the Aljareeda newspaper from writing since December 2016 and indicate how long the ban will last. Please also explain the reason for the requirement that all journalists must register with the National Council for Press and Publication, which is under the direct supervision of the President. Please respond to reports that human rights defenders are subject to blacklisting and travel restrictions by the State party, without any justifiable reason. Please indicate the reasons for the increase in the maximum penalty for rioting from two to five years' imprisonment.

26. Please respond to reports of restrictions on public meetings of opposition parties, including instances in which the National Intelligence and Security Services prevented:

(a) The Republican Party from marking the anniversary of the execution of its founder, Mahmoud Mohamed Taha, on 18 January 2018;

(b) Two opposition political parties, the Sudanese Communist Party and the Sudanese Congress Party, from holding a public event in Khartoum in February 2018.

Freedom of conscience and religion or belief (art. 18)

27. Please respond to reports of the demolition of churches and places of worship by the security forces, and explain the reason for refusals to grant permits for the building of new churches. Specifically, please provide detailed information on the reasons for the demolition of the Sudanese Church of Christ building in the Soba al-Aradi area of Khartoum and the Sudanese Church of Christ building in Agadisia in Khartoum in 2017. Please clarify whether there are any mechanisms in place to provide for compensation for places of worship that have been destroyed. Please also respond to reports that the State party has closed church-affiliated non-governmental organizations, ordered expatriate Christian workers out of the country and detained a number of Christian pastors. Please provide information on the number of Christian religious leaders, who have been:

(a) Arrested and detained by the National Intelligence and Security Services;

(b) Prosecuted and convicted;

(c) Had sanctions imposed on them. Please provide up-to-date information about the cases of the Reverend Hassan Abdelrahim Tawor and two other Christians — a Czech aid worker, Petr Jasek, and Abdulmonem Abdumawla of Darfur — who were charged before a court in Khartoum with crimes against the State that carry the death penalty.

28. Please report on measures taken to guarantee the right to freedom of conscience and religious belief in law and in practice. Please clarify whether it is legally permissible to convert from Islam to another religion and, if not, what penalties may be imposed for apostasy, and what measures have been taken to amend the provisions of sections 125, 126 and 152 of the Criminal Code of 1991 so as to bring it into conformity with the Covenant. Please indicate how many people have been charged with the crime of apostasy and how many have been sentenced. Please respond to reports that women who dress in ways that do not conform to the local Islamic dress codes have been prosecuted. In this regard, please provide information on the number of women who have been prosecuted and the punishments imposed in these cases.